

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

BACKWARD CLASSES WELFARE DEPARTMENT – Appeal Petition filed by Sri G.Bhaktavatsalam S/o G.Ramaiah, Ex-Counsellor, Ward No.6, Municipal Council, Nizamabad, against the Proceedings Rc.No.C3/1487/2000-1, dt:23.2.2005 of the Collector and District Magistrate, Nizamabad – Appeal allowed – Orders – Issued.

BACKWARD CLASSES WELFRARE (C1) DEPARTMENT

G.O.Ms.No.27

Dated: 12.5.2009
Read the following:

Ref:- 1) From the District Collector, Nizamabad, Proceedings

No.C3/1487/2000-1, dt. 23-02-2005.

2) Appeal Petition filed by Sri G.Bhaktavatsalam S/o

G.Ramaiah, Counsellor, Ward No.6, Municipal Council,

Nizamabad, dt. 29-03-2005, received through the Minister

(BCW) Endt.No.654/3/M(RD&RWS/2006, dt. 31-08-2006.

3) Govt.Memo.No.3366/C1/2007-7, dated. 01-10-2007.

4) From the Collector and District Magistrate, Nizamabad District, Lr.No.C3/4187/2007, dated. 26-11-2007.

5) Memo.No.3366/C1/2006-8, Dated: 19-06-2008 & 2.3.2009

6) Govt., Memo.No.3366/C1/2006- , dt:21.8.2008

7) From the Director, BC Welfare, Lr.Rc.No.E1/4878/2008, dt:19.2.2009

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ORDER:

The President, Munnurukapu Sangam, Nizamabad in his representation dt:21.2.2000 has alleged that Sri.G.Bhaktavatsalam Naidu made an application for issue of “Kapu” (BC) caste certificate, though he belongs to Naidu (OC) Community for filing nominations in Municipal Elections 2000 as Ward Member from ward.no.6 of Nizamabad Municipality and requested not to issue kapu certificate and also requested to cancel the certificate if any issued earlier.

2. On receipt of the above complaint, the Collector& District Magistrate, Nizamabad had requested the Revenue Divisional Officer, Nizamabad for verification and to offer his remarks.

3. After receiving the report from RDO, Nizamabad & DBCWO, Nizamabad and based on the opinion from the DLSC, the District Collector, Nizamabad has cancelled the BC certificate obtained from the then Tahsildar, Nizamabad issued in favour of Sri.G.Bhaktavatsalam.

4. Aggrieved by the orders of the District Collector, Nizamabad, Sri. G.Bhaktavatsalam S/o G.Ramaiah, Councilor, Ward No.6, Municipal Council, Nizamabad District in the reference 2nd read above, has filed an Appeal petition before the Government on 29-3-2005 under Rule 11 of the AP SCs,STs & BCs Issue of the community, Nativity & date of Birth Certificate Rules,1977, and requested to suspend the orders passed by the District Collector, Nizamabad District , pending disposal of the Appeal Petition and pass such other suitable order or orders in the circumstances of the case.

5. The Appeal Petition filed by Sri.G.Bhaktavatsalam in the reference 2nd read above was taken on file on 2.9.2006 and called for the records in the reference 3rd read above.

6. In the reference 4th read above, the Collector & District Magistrate, Nizamabad has furnished the records along with Para-wise remarks on the appeal petition.

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7. The applicant in his appeal petition has submitted the following grounds supporting his caste claim:-

- a) The order of the District Collector dt:23-2-2005 and the notification declaring that the appellant belonging to Naidu (OC) Caste and canceling the certificate issued by the then Tahsildar, Nizamabad, dt. 21-6-1976 is contrary to law, weight of evidence and probabilities of the case.
- b) The District Collector erred in entertaining the representation of some persons, who are having vested interests i.e., Munnuru Kapu Sangham, after a lapse of 25 years of issuance of the certificate by the then Tahsildar, who is competent to issue such certificate.
- c) The District Collector ought to have thrown out the representation as politically motivated, since the Appellant contested the Municipal elections and got elected to the Municipal council, Nizamabad, for Ward No.6.
- d) The District Collector ought to have seen that the District Level Scrutiny Committee had not conducted enquiry as per the provisions of the Act and the Rules framed there under.
- e) The District Collector ought to have seen that the statement of witnesses before the District Level Scrutiny Committee was not furnished to the Appellant and no opportunity was given to cross-examine the witnesses.
- f) The Appellant had produced the certificates available with him to prove that he belongs to Munnuru Kapu B.C. Community.
- g) The District Collector ought to have relied upon the report of his own Officer, who conducted the enquiry as per his directions and submitted a report that the Appellant belongs to Munnuru kapu after examining various persons belonging to Munnuru Kapu caste.
- h) The District Collector relied on the report of the R.D.O. dt. 24-03-2001 which was conducted behind the back of the Appellant and submitted a report that the Appellant does not belong to Munnuru Kapu. The report was not furnished to the Appellant. The District Collector ought not have relied on the report, which is conducted behind the back of the Appellant for coming to the conclusion that the Appellant does not belong to Munnuru Kapu.
- i) The District Collector failed to exercise his mind before coming to the conclusion to cancel the caste certificate. The order of the District Collector dated 23-2-2005 is passed only on the findings of the B.C. Welfare Officer and R.D.O., who conducted enquiry behind the back of the Appellant; and as such the order is passed with total non-application of mind. Further, the reports were not communicated to the Appellant.
- j) Merely because the Appellant did not submit his explanation to the Show-cause Notice dt. 29-12-2004, the District Collector, being the quasi-judicial authority had to apply his mind judiciously and to pass the order keeping in view the provisions contained in the Act and the Rules made there under and also principles of natural justice. The District Collector failed to see that the principles of natural justice have been completely violated by the District Level Scrutiny Committee and also the R.D.O., who conducted the enquiry and submitted the report dt. 27-3-2001.
- k) The findings of the District Level Scrutiny Committee were not communicated to

the Appellant. In the absence of findings of District Level Scrutiny Committee, it is not possible to submit his explanation to the Show-cause notice and as such there is a denial of reasonable opportunity to the appellant to substantiate his case. Therefore, the order is liable to be set aside on this sole ground of violation of principles of natural justice.

- l) The findings of the District Level Scrutiny Committee and the reports of R.D.O. and B.C.Welfare Officer is perverse and the District Collector cannot rely on such perverse findings and the order on such finding is illegal.
- m) The order and notification dt. 23-2-2005 is based on surmises and not on facts of the case.
- n) The appeal petitioner has prayed to set aside the Order & notification on the file of the District Collector, Nizamabad, in the interests of justice, and pass such other or further orders as deemed fit and proper in the circumstances of the case.

8. In the references 5th & 6th read above, the Director, BC Welfare was requested to ask a Senior Officer to conduct enquiry and to furnish his report and to apprise the case at the time of hearing on 6.3.2009 at 12:00 PM.

9. In the reference 7th read above, the Deputy Director, BC Welfare has submitted his enquiry report. The Enquiry Officer has opined that the individual belongs to Munnuru Kapu caste only. Nothing was brought before him during his enquiry to prove that he does not belong to Munnuru Kapu caste. Even in the report of the Revenue Divisional Officer, Nizamabad, it was said that the majority of the evidence (60%) was in favour of his caste claim as Munnuru Kapu only.

10. In the references 5th & 6th read above, the Appeal Petitioner viz., Sri.G.Bhaktavastalam was requested to attend the hearing on 7-7-2008, 6.3.2009 respectively before the Government in person or through his Counsel.

11. Finally the hearing was conducted at 12:00 Noon on 6.3.2009 in the chambers of Hon'ble Minister for BC Welfare. The petitioner Sri.Bhaktavatsalam and an Officer from O/o the District Collector, Nizamabad, the Joint Director, BC Welfare and the Dy. Director, BC Welfare were present.

12. The petitioner strongly argued that he belongs to 'Munnuru Kapu' Community and quoted one ex-minister's name i.e., Gaddam Srinivasa Rao, Ex-Minister who belongs to Munnuru Kapu Community with the surname as Gaddam for support of his argument. The major basis for cancellation of the caste certificate of the petitioner by the DLSC is that his caste was mentioned as Naidu in MPHS data. It is known beyond doubt that there is no caste by name Naidu. But Naidu is normally used as a suffix to the names by people of different castes viz., Kammas, Kapus, Velmas, Koppala Velmas, etc., some of the castes in which the suffix Naidu is used to the names of the caste men also fall under Backward Classes. It is not the prerogative of the higher castes alone. So by simply having a suffix of 'Naidu' to the name of a person, his caste can't be decided.

13. The Deputy Director, BC Welfare in his enquiry report has stated that, Sri G.Bhaktavatsalam Naidu belongs to "Munnuru Kapu" Community.

14. Govt., after examining the entire matter hereby allow the appeal petition of Sri Sri.G.Bhaktavatsalam, and in exercise of the powers conferred under Section 7(2) of A.P. (SCs, STs and BCs) Regulation of issue of Community Certificates Act, 1993, and Rules, 1997, the Proceedings of the District Collector, Nizamabad District, dated 23.2.2005, are here by squashed.

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15. The original records (containing of two volumes of pages from 1-176 & 438-722 respectively received through the reference 4th read above are returned here with to the District Collector, Nizamabad District and the receipt of the same may be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

T.SATYANARAYANA RAO
SECRETARY TO GOVERNMENT

To:
Sri G.Bhaktavatsalam, S/o G.Ramaiah, Ex.Counsillor, Ward No.6,
Municipal Council, Nizamabad,
The Collector& District Magistrate, Nizamabad
The Director, B.C.Welfare, Hyderabad
The P.S. to M (BCW)
SF/SC

//Forwarded by order//

Section Officer